

CHAPTER 216A

DEPARTMENT OF PUBLIC SERVICE, ORGANIZATION

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NOTE: For penalties for the violation of the provisions of this chapter, see section 235.13.

216A.01 ESTABLISHMENT OF DEPARTMENT AND COMMISSION.

There are hereby created and established the department of public service, and the public utilities commission. The department of public service shall have and possess all of the rights and powers and perform all of the duties vested in it by this chapter. The public utilities commission shall have and possess all of the rights and powers and perform all of the duties vested in it by this chapter, and those formerly vested by law in the railroad and warehouse commission.

History: 1967 c 864 s 1; 1969 c 1031 s 1; 1980 c 614 s 103

216A.02 DEFINITIONS.

Subdivision 1. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. "Legislative function" means the establishment and promulgation of all rules, orders and directives of general or particular applicability, governing the conduct of the regulated persons or businesses, together with such investigative procedures as are incident thereto and all other valid acts and procedures which are historically or functionally legislative in character.

Subd. 3. "Administrative function" means all duties and procedures concerning the execution and enforcement of the laws, rules, orders, directives, duties and obligations imposed for the control and government of the persons or businesses regulated, together with investigative activities incident thereto and procedures inherently administrative or executive in character.

Subd. 4. "Quasi-judicial function" means the promulgation of all orders and directives of particular applicability governing the conduct of the regulated persons or businesses, together with procedures inherently judicial.

History: 1967 c 864 s 2; 1977 c 364 s 1

216A.03 COMMISSION.

Subdivision 1. **Members.** As of January 1, 1975 the public utilities commission shall consist of five members, three of whom shall be the members then serving, who shall continue to serve for the balance of their elective or appointive terms. There shall be two additional commissioners appointed by the governor with the advice and consent of the senate, one for a term expiring December 31, 1975, and one for a term expiring December 31, 1977. Thereafter the terms of all subsequent members of the commission shall be six years and until their successors have been appointed and qualified. Each commissioner shall be appointed by the governor by and with the advice and consent of the senate. Not more than three

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commissioners shall belong to the same political party. The governor in his selection of commissioners shall give consideration to persons learned in the law or persons who have engaged in the profession of engineering, public accounting or property and utility valuation as well as being representative of the general public.

Subd. 1a. **Removals; vacancies.** The removal of members, and filling of vacancies on the commission shall be as provided in section 15.0575.

Subd. 2. [Repealed, 1976 c 134 s 79]

Subd. 3. **Chairman.** The commission shall elect one of their number chairman at the meeting of the commission in the second week in January of each year for a term of one year.

If a vacancy occurs in the position of chairman, the commission shall elect a new chairman to complete the unexpired term.

Subd. 3a. **Powers and duties of the chairman.** The chairman shall be the principal executive officer of the commission. He shall preside at meetings of the commission. The chairman shall organize the work of the commission and may make assignments to commission members, appoint committees and give direction to the commission staff through the executive secretary subject to the approval of the commission.

Subd. 4. **Oath.** Before entering upon the duties of his office, each commissioner shall take and file with the secretary of state the following oath:

"I do solemnly swear that I will support the constitution of the United States, the constitution of this state; that I will faithfully discharge my duties as commissioner of the public utilities commission according to the best of my ability; and that I am not in the employ of or holding any official relation to or pecuniarily interested in any individual proprietorship, firm, copartnership, corporation or association, the activities of which are wholly or partially subject to regulation by the public utilities commission; nor do I serve on or under any committee of any political party."

Subd. 5. **Quorum.** A majority of the commission shall constitute a quorum, and the act or decision of a majority of commissioners present, if at least a quorum is present, shall be the act or decision of the commission. If a vacancy exists on the commission a majority of the remaining commissioners constitutes a quorum.

History: 1967 c 864 s 3; 1974 c 429 s 65; 1976 c 134 s 50,51; 1977 c 364 s 2; 1980 c 614 s 104,105,123

216A.035 CONFLICT OF INTEREST.

No person during his term of membership on the public utilities commission shall receive any significant portion of his income directly or indirectly from any public utility. No person shall be eligible to be appointed as a member of the public utilities commission unless and until he divests himself of any significant interest or abandons any employment with a utility.

No person who is an employee of the public service department shall participate in any manner in any decision or action of the commission where he has a direct or indirect financial interest. Each commissioner or employee of the public service department who is in the general professional, supervisory, or technical units established in section 179.741 or who is a professional, supervisory, or technical employee defined as confidential in section 179.63, subdivision 8, or who is a management classification employee and whose duties are related to public utilities or transportation regulation shall report to the ethical practices board annually before April 15 any interest he has in an industry or business regulated by the commission.

History: 1974 c 429 s 66; 1979 c 206 s 1; 1980 c 614 s 123; 1981 c 210 s 51

216A.04 EXECUTIVE SECRETARY; EMPLOYEES.

Subdivision 1. **Selection of executive secretary.** The commission shall appoint an executive secretary, not a member, who shall be in the unclassified service of the state and shall serve at the pleasure of the commission. The executive secretary shall take, subscribe and file an oath similar to that required of the commissioners, and shall be subject to the same disqualifications as commissioners.

Subd. 1a. **Powers and duties of the executive secretary.** The executive secretary shall:

(1) Cause to be kept full and correct records of all transactions and proceedings of the commission;

(2) Appoint, subject to chapter 43A and the approval of the commission, all other classified employees of the commission and supervise and direct their activities;

(3) Have custody of the seal of the commission;

(4) Serve as the administrative officer of the commission with responsibility for personnel, budget and other administrative details related to the work of the commission or as required by state law;

(5) Prepare orders, reports, and other materials as assigned by the commission and recommend to the commission such measures as may be appropriate to achieve the objectives of the commission;

(6) Advise the commission of its financial position and recommend a budget for its approval; and

(7) Perform other duties as the commission directs.

Subd. 2. **Acting secretary.** The commission may designate any responsible employee to serve as acting secretary in the absence of the secretary.

Subd. 3. **Officers and employees.** The commission may establish other positions in the unclassified service if the positions meet the criteria of section 43A.08, subdivision 1a, clauses (a) to (g). The commission may employ other persons as may be necessary to carry out its functions.

Hearing reporters may provide transcripts of proceedings before the commission to persons requesting transcripts who pay a reasonable charge therefor to the reporter. The amount of the charge shall be fixed by the commission and retained by the reporter, any other law to the contrary notwithstanding.

History: 1967 c 864 s 4; 1971 c 74 s 1; 1971 c 646 s 1; 1973 c 35 s 44; 1980 c 614 s 106-108; 1981 c 210 s 54; 1982 c 560 s 51

216A.05 FUNCTIONS AND POWERS.

Subdivision 1. **Legislative and quasi-judicial nature of functions.** The functions of the commission shall be legislative and quasi-judicial in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize. It may adjudicate all proceedings brought before it in which the violation of any law or rule administered by the department is alleged.

Subd. 2. **Powers generally.** The commission shall, to the extent prescribed by law:

(1) Investigate the management of all warehousemen and telegraph companies, the manner in which their businesses are conducted and the adequacies of the services which they are affording to the public, and make all appropriate orders relating to the continuation, termination or modification of all services and

facilities with a view to properly promoting the security and convenience of the public.

(2) Review and ascertain the reasonableness of tariffs of rates, fares and charges, or any part or classification thereof, and prescribe the form and manner of filing, posting and publication thereof.

(3) Prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted.

(4) Order the issuance of franchises, permits or certificates of convenience and necessity.

Subd. 3. **Manner of fact finding.** The commission may:

(1) Subpoena, in the same manner a district court summons is served, at such time and place as it may designate, any books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies in lieu thereof.

(2) Prepare all forms or blanks for the purpose of obtaining information which it may deem necessary or useful in the proper exercise of its authority and duties in connection with regulated businesses, and prescribe the time and manner within which such blanks and forms shall be completed and filed with it.

(3) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under its jurisdiction.

(4) Examine, under oath, any officer, agent or employee thereof in relation to its business and affairs.

Subd. 4. **Performance of functions of public utilities commission.** The commission shall exercise each and every legislative function imposed by law on it.

Subd. 5. **Hearings upon petitions.** With respect to those matters within its jurisdiction the commission shall receive, hear and determine all petitions filed with it in accordance with the rules of practice and procedure promulgated by the commission, and may investigate, hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition. Upon receiving petitions filed pursuant to sections 221.061, 221.081, 221.121, subdivision 1, 221.151, 221.296, and 221.55, the commission shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the executive secretary for that purpose and to whomever he deems to be interested in the petition. The commission may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the commission receives a written objection and a notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition shall be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn prior to the hearing. The commission may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the petition.

Subd. 6. **Operation with regard to federal law.** The commission is authorized:

(1) To cooperate with all federal agencies for the purpose of harmonizing state and federal regulations within the state to the extent and in the manner deemed advisable.

(2) To conduct joint hearings with any federal agency or commission within or without the state and participate in any proceedings before any federal agency

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or commission when it considers such participation advisable and in the interest of the people of this state.

(3) To nominate members to any joint board as provided by federal acts.

History: 1967 c 864 s 5; 1969 c 1031 s 2; 1971 c 25 s 67; 1976 c 166 s 10; 1977 c 346 s 11; 1977 c 364 s 3; 1980 c 614 s 109,110

216A.06 DIRECTOR.

Subdivision 1. **Establishment of office, appointment.** The office of director of the department of public service is hereby established. He shall be appointed by the governor under the provisions of section 15.06.

Subd. 2. [Repealed, 1977 c 305 s 46]

History: 1967 c 864 s 6; 1976 c 166 s 11; 1977 c 305 s 27

216A.07 DIRECTOR; POWERS AND DUTIES.

Subdivision 1. **Administrative duties.** The director shall be the executive and administrative head of the public service department. He shall have and possess all the rights and powers and perform all the duties relating to the administrative function of the department as set forth in this chapter. The director may:

(1) Prepare all forms or blanks for the purpose of obtaining information which he may deem necessary or useful in the proper exercise of his authority and duties in connection with regulated businesses;

(2) Prescribe the time and manner within which forms or blanks shall be filed with the department;

(3) Inspect at all reasonable times, and copy the books, records, memoranda and correspondence or other documents and records of any person relating to any regulated business; and

(4) Cause the deposition to be taken of any person concerning the business and affairs of any business regulated by the department. Information sought through said deposition shall be for a lawfully authorized purpose and shall be relevant and material to the investigation or hearing before the commission. Information obtained from said deposition shall be used by the department only for a lawfully authorized purpose and pursuant to powers and responsibilities conferred upon the department. Said deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

Subd. 2. **Enforcement.** The director is responsible for the enforcement of chapters 216A, 216B and 237 and the orders of the commission issued pursuant to those chapters.

Subd. 3. **Intervention in proceedings.** The director may intervene as a party in all proceedings before the commission. The attorney general shall act as counsel in the proceedings.

Subd. 4. **Investigations.** The director may, on his own initiative, investigate any matter subject to the jurisdiction of the department or commission.

Subd. 5. **Rulemaking.** The director shall make substantive and procedural rules to implement the provisions of chapters 216A, 216B and 237. Rules adopted under this authority shall be promulgated pursuant to the administrative procedure act and shall have the force and effect of law.

History: 1967 c 864 s 7; 1969 c 1031 s 3; 1976 c 166 s 12; 1977 c 364 s 4; 1980 c 614 s 111

216A.08 CONTINUATION OF RULES OF PUBLIC SERVICE DEPARTMENT.

All valid rules, regulations, orders and directives heretofore enforced, issued or promulgated by the public service department under authority of chapters 218, 219, 221, or 222 shall remain and continue in force and effect until repealed, modified or superseded by duly authorized rules, regulations, orders or directives of the public utilities commission or the commissioner of transportation.

History: 1967 c 864 s 8; 1976 c 166 s 13; 1980 c 614 s 123

216A.09 ACTIONS.

The commission may sue or be sued in its own name.

History: 1967 c 864 s 9

216A.095 COOPERATION BETWEEN DEPARTMENT AND COMMISSION.

Nothing in this chapter prevents the department or the commission from entering into agreements with each other or with other agencies to coordinate and share services, to conduct joint projects or investigations on matters within the authority and jurisdiction of the parties thereto, or to temporarily assign staff to projects requested by each other or by other agencies. The cooperative agreements may provide for the sharing of costs between the parties thereto or the reimbursement of the department or commission operating budget for expenditures made on behalf of the department or commission or agency. No cooperative effort shall interfere with the independence and integrity of either the commission or the department or any other agency that is a party.

History: 1980 c 614 s 112

RAILROAD PASSENGER SERVICE**216A.10 RAILROAD PASSENGER SERVICE NOT PROVIDED BY NATIONAL SYSTEM, PURPOSE.**

The purpose and intent of sections 216A.10 to 216A.13 is to provide for a balanced transportation system in the state, required by the public convenience and necessity, by making available rail passenger service not provided by the National Railroad Passenger Corporation in its basic national rail passenger system.

History: 1971 c 956 s 1

216A.11 DEFINITIONS.

Subdivision 1. For the purposes of sections 216A.10 to 216A.13 the terms defined in this section have the meanings given them.

Subd. 2. "Corporation" means the National Railroad Passenger Corporation created pursuant to the Rail Passenger Service Act of 1970, Public Law 91-518.

Subd. 3. "Governmental unit" means a regional development commission, county, city or town.

History: 1971 c 956 s 2; 1973 c 123 art 5 s 7

216A.12 AUTHORITY TO ENTER INTO AGREEMENTS.

The commissioner of transportation, any governmental unit, or any combination thereof, may enter into any contracts or agreements pursuant to Public Law 91-518 and in conformance with state law governing contracts by state agencies and governmental units, to reimburse the corporation for a reasonable portion of

any losses associated with the institution of intercity rail passenger service by the corporation beyond that included within the basic national rail passenger system.

History: 1971 c 956 s 3; 1976 c 166 s 6 subd 3

216A.13 PUBLIC HEARING; NOTICE.

Before any contract or agreement, as provided in section 216A.12, is entered into, the governing body of the governmental unit shall hold a public hearing on such proposed contract or agreement. Notice of the time and place of said hearing shall be published in one or more legal newspapers of general circulation in the area once in each week for two successive weeks prior to said hearing. The published notice shall be in a form determined by the governing body, which form shall be sufficient in size and prominent in format in order to attract the attention of the reader. In any event the notice shall be of a size at least two columns in width by six inches in length. The notice shall set forth the portion of any losses that the governmental unit proposes to reimburse the corporation.

History: 1971 c 956 s 4